THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.10025 of 1997

Dated: 04-07-2006

Between:

Karla Doss and another.

..... PETITIONERS

AND

The District Collector,
Machilipatnam, and two others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.10025 of 1997

ORDER:

Petitioners, who are nine in number, are residents of Bhavanipuram in Vijayawada. They claim to belong to weaker sections of the society and homeless. They made representation on 24-10-1994 requesting the respondents to assign house sites in one of the vacant lands comprised in R.S.Nos.7, 9, 10, 14, 15, 17/2, 18 and 20 of Vidhyadharapuram of Vijayawada. It is their grievance that when their representation was pending, without considering their claim, second respondent issued proceedings bearing No.H.1744/90 dated 05-01-1996 allotting land in R.S.Nos.7 and 9/1B admeasuring an extent of 9,288 sq. meters in favour of thirty two members of Revenue Employees Cooperative Building Society, Vijayawada, (hereinafter called 'revenue society'). Therefore, they filed the present writ petition seeking invalidation of said proceedings of Mandal Revenue Officer.

The Mandal Revenue Officer, Vijayawada Urban, has filed a detailed counter-affidavit. It is stated that the land in R.S.Nos.7 and 9/1B was declared as surplus land under the provisions of Urban Land (Ceiling and Registration) Act, 1976 (the Act, for brevity) and after completing the formalities possession was obtained on 22-12-1994. The District Level Allotment Committee, Vijayawada, on 11-10-1995 resolved to instruct the Mandal Revenue Officer to take possession of the land and to propose allotment to Fire Service Department, revenue society and Income Tax Department besides placing 2000 sq. meters under the custody of Mandal Revenue Officer. Accordingly impugned proceedings dated 05-01-1996 were issued. The allegation that the petitioners applied for allotment of land in R.S.Nos.7, 9 and others is denied. It is stated that the land by
24-10-1994, when the petitioners made application, was not taken possession and meeting of Allotment Committee was not held. It is also stated that as per the allotment orders, the members of revenue society have occupied the sites and raised temporary structures. At that stage, W.P.No.13659 of 1996 was filed before this Court against the members of revenue society, which was disposed of on 17-07-1996 in favour of petitioners therein. The members of revenue society filed W.A.No.926 of 1996 and the same was allowed. An averment is made in the
counter-affidavit that if any of the allottees of revenue society already own house or house site, necessary action will be taken for cancellation of allotment and the same will be allotted to deserving members. This counter-affidavit is filed before this Court along with W.V.M.P.No.4267 of 1998 and a copy of the same was served on the counsel for the

petitioners on 22-02-1999.

No reply-affidavit is filed denying the counter averments.

The main contention of the petitioners is that when their application was pending for allotment of house sites, it was improper and illegal for the Mandal Revenue Officer to have allotted the land in favour of members of revenue society. This averment cannot be accepted. The petitioners have no right that can be enforced under Article 226 of the Constitution of India. The question, therefore, is whether there is any duty cast on the revenue authorities, who took possession of surplus urban land pursuant to declaration proceedings under the Act. In this case the District Level Allotment Committee authorized the Mandal Revenue Officer to sent proposals and allot land. Accordingly taking into consideration the pencency of application for allotment of land in R.S.Nos.7 and 9, the Mandal Revenue Officer proposed to allot land to three government organizations including the revenue society. As there was likelihood of delay in getting approval from the State Level Allotment Committee, pending receipt of approval as many as thirty two members of revenue society were allotted house sites of 83 sq. meters each. Therefore, the Mandal Revenue Officer cannot be said to have acted arbitrarily in doing so. The allotment was made in a transparent and fair manner and the same is unassailable, which is the reason for rejecting the writ petition. Even according to the respondents, land was proposed to allot to Fire Service Department, Income Tax Department and revenue society besides allotting small extents to the members of the revenue society. In spite of the same, these allottees are not made parties to the writ petition. In the absence of affected parties this Court cannot issue any writ of mandamus as prayed for.

Accordingly, the writ petition, which is devoid of merits, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

4th July, 2006
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